IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.V.K.BALI
&
THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 15TH DECEMBER 2006 / 24TH AGRAHAYANA 1928

WA.No. 1119 of 2006()

AGAINST THE JUDGEMENT IN OP.3280/2003 Dated 01/07/2004
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APPELLANTS: RESPONDENTS IN THE OP:
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1. STATE OF KERALA,
REP. BY THE CHIEF SECRETARY TO THE GOVERNMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. THE ASSISTANT EXCISE COMMISSIONER,
PALAKKAD.

3. THE DISTRICT COLLECTOR, PALAKKAD.

4. THE EXCISE COMMISSIONER,
THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER MR.T.B.HOOD

RESPONDENTS: PETITIONERS IN THE O.P:
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1. K. SANKARANKUTTY,
S/O. IYYALA MADHAVAN VAIDYAN, VELLINEZHI VILLAGE,
OTTAPPALAM TALUK, PALAKKAD DISTRICT.

2. P.K. SUDHEER, S/O.PARAKKOTTIL KUMARAN,
KATTAPPURAM, KARIMBUZHA VILLAGE, OTTAPPALAM TALUK,
PALAKKAD DISTRICT.

BY ADV. SRI.C.C.THOMAS

THIS WRIT APPEAL HAVING COME UP FOR ORDERS ON 15/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.K. BALI, C.J. & C.N.RAMACHANDRAN NAIR, J.

W.A.No.1119 of 2006 &
C.M.Appln.No.752 of 2006

Dated, this the 15th day of December, 2006

JUDGMENT

V.K.Bali,C.J.(Oral)

Delay condoned.

2. This writ appeal has been filed challenging the order passed by the learned Single Judge dated 1st July, 2004 in three connected Original Petitions bearing Nos.5876 of 2003, 12129 of 2002 and 3280 of 2003. It is not necessary to refer to the facts as the same have been mentioned in detail in the impugned order. The learned Single Judge has taken into consideration variety of factors for arriving at the right conclusion. In fact, even on one ground, i.e. that if the demand was made in time the petitioner would have cleared the amount was itself enough to grant the relief sought for. It is the conceded position that atleast on two occasions the appellants clearly mentioned that there were no dues against the petitioner. It is only years thereafter that they reported that interest was to be first adjusted and thereafter only the principal amount was to be

adjusted and for that period also they would charge interest. The State cannot be permitted to take this plea. This is simply harassment of a citizen. There is no merit whatsoever in the appeal. Before we may part with this order we would like to mention that the same view has been taken by a Division Bench of this Court in W.A.No.1027 of 2005 and connected matters vide order dated 27th June, 2006. No merits. Dismissed.

V.K. BALI,
CHIEF JUSTICE.

C.N.RAMACHANDRAN NAIR,
JUDGE.

vns